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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,109	04/04/2001	Fumihiko Nishio	7217/64311	2753
7590 01/06/2005			EXAMINER	
JAY H. MAIOLI			ZHONG, CHAD	
Cooper & Dunh	am LLP			
1185 Avenue of the Americas			ART UNIT	PAPER NUMBER
New York, NY 10036			2152	
			DATE MAILED: 01/06/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
Office Action Summary	09/826,109	NISHIO ET AL.				
Office Action Summary	Examin r	Art Unit				
	Chad Zhong	2154				
The MAILING DATE of this communication app Period for Reply	ars on the cov r sheet with the co	orrespondenc address				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
Status						
1)⊠ Responsive to communication(s) filed on <u>30 September 2004</u> .						
2a)⊠ This action is FINAL . 2b)☐ This	This action is FINAL . 2b) This action is non-final.					
3) Since this application is in condition for allowan	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under E	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims						
4) Claim(s) <u>1-9</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdraw	4a) Of the above claim(s) is/are withdrawn from consideration.					
5) Claim(s) is/are allowed.						
	6) Claim(s) <u>1-9</u> is/are rejected.					
·	7) Claim(s) is/are objected to.					
8) Claim(s) are subject to restriction and/or election requirement.						
Application Papers						
9)☐ The specification is objected to by the Examiner.						
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of:						
1. Certified copies of the priority documents have been received.						
 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage 						
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
222 the situation defined details. It is not at the defined depice for received.						
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) Interview Summary (PTO-413) Paper No(s)/Mail Date					
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	5) 🔲 Notice of Informal P	5) Notice of Informal Patent Application (PTO-152) 6) Other:				
Tuper Hotalinate	од <u>— опет. — </u>					

1. This action is responsive to communications: Amendment, filed on 09/30/2004. This action has been made final.

- 2. Claims 1-9 are presented for examination. In amendment A, filed on 09/30/2004: claims 1, 5-9 are amended.
- 3. It is noted that although the present application does contain line numbers in specification and claims, the line numbers in the claims do not correspond to the preferred format. The preferred format is to number each line of every claim, with each claim beginning with line 1. For ease of reference by both the Examiner and Applicant <u>all</u> future correspondence should include the recommended line numbering.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 (c) of this title before the invention thereof by the applicant for patent.
- 4. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Colby et al. (hereinafter Colby), 6,625,643.
- 5. As per claim 1, Colby teaches an information providing apparatus for delivery of content data, comprising:

content data input means for operation by a user to input content data (Col. 7, lines 54-67, wherein the data can be entered manually by the operator);

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storing means for storing the content data provided by the content data input means (Fig 1; Col. 7, line 54 - Col. 8, line 5, wherein the data entered are stored in the database); and delivery designating means for designating a delivery condition set by the user including one of a transmission band and a transmission path for delivering the content data (Col. 28, lines 15-20; Col. 27, lines 31-37; Col. 19, line 65 - Col. 20, line 2; Col. 23, lines 50-30),

wherein a delivering apparatus presents data necessary for determining the delivery condition that is designated by the <u>user of the</u> delivery designating means (Col. 28, lines 15-20; Col. 27, lines 31-37; Col. 25, lines 20-21; Col. 26, lines 25-30).

6. As per claim 2, Colby teaches the information providing apparatus as set forth in claim 1, further comprising:

communicating means for transmitting the content data provided to the delivering apparatus (Col. 5, lines 60-67; Col. 8, lines 1-5).

- 7. As per claim 3, Colby teaches the information providing apparatus as set forth in claim 1, wherein the data necessary for determining the delivery condition is a number of audiences for the content data delivered (Col. 5, lines 25-30).
- 8. As per claim 4, Colby teaches the information providing apparatus as set forth in claim 1, wherein the data necessary for determining the delivery, condition is a delivery cost (Col. 5, lines 25-30, wherein the delivery cost is in terms of bandwidth).
- 9. As per claim 5, Claim 5 is rejected for the same reasons as rejection to claim 1 above.
- 10. As per claim 6, Colby teaches a delivering apparatus for delivering content data, comprising:

first communicating means for receiving content data provided from an information provider including a delivery condition including one of a transmission band and a transmission path set

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<u>by a user of the information provider</u> (Fig 1; Col. 28, lines 15-20; Col. 27, lines 31-37; Col. 19, line 65 – Col. 20, line 2; Col. 23, lines 50-30);

storing means for storing the content data;

transmitting means for delivering the content data to a receiving terminal unit (Col. 28, lines 15-20; Col. 27, lines 31-37);

second communicating means for receiving user profile information from the receiving terminal unit (Col. 5, lines 25-35);

profile storing means for storing the user profile information (Fig 1; Col. 5, lines 25-35); charging process controlling means for calculating a cost corresponding to the delivery of the content data (Col. 26, lines 24-29, lines 40-45); and

band controlling means for controlling a band used for delivering the content data (Col. 5, lines 25-35) based on the delivery condition set by the user of the information provider, (Col. 28, lines 1-18)

wherein the charging process controlling means pre-calculates a <u>size</u> of <u>an audience</u> for a content corresponding to the user profile information, calculates the cost corresponding to the delivery of the content data, and informs an information providing apparatus of the cost (Col. 5, lines 25-35; Table 4; Col. 26, lines 24-29, lines 40-45; Col. 27, lines 30-40, wherein the cost of delivery comprising of calculation of availability of bandwidth requirements).

11. As per claim 7, Colby teaches a delivering apparatus for delivering content data, comprising:

first communicating means for receiving the content data provided from an information provider including a delivery condition including on of a transmission band and a transmission path set by a user of the information provider (Fig 1; Col. 28, lines 15-20; Col. 27, lines 31-37; Col. 19, line 65 – Col. 20, line 2; Col. 23, lines 50-30; Col. 28, lines 15-20);

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storing means for storing the content data;

transmitting means for delivering the content data to a receiving terminal unit (Col. 28, lines 15-20; Col. 27, lines 31-37);

second communicating means for receiving user watching/listening history from the receiving terminal unit (Col. 5, lines 25-35; Col. 25, lines 20-21; Col. 23, lines 65-67; Col. 24, lines 1-6; Col. 7, lines 47-55; Col. 5, lines 25-37);

watching/listening history storing means for storing the user watching/listening history; charging process controlling means for calculating a cost corresponding to the delivery of the content data (Col. 26, lines 24-29, lines 40-45); and

band controlling means for controlling a band of a network used for delivering the content data (Col. 5, lines 25-35) <u>based on the delivery condition set by the user of the information provider</u> (Col. 28, lines 1-18),

wherein the charging process controlling means pre-calculates a number of audiences for the content data corresponding to the watching;

listening history, calculates the cost corresponding to the delivery of the content data, and informs an information providing apparatus of the cost (Col. 5, lines 25-35; Table 4; Col. 26, lines 24-29, lines 40-45).

12. As per claims 8-9, Claims 8-9 are rejected for the same reasons as rejection to claims 6-7 above respectively.

Conclusion

13. In the remark, the Applicant argued in substance that Colby fails to disclose or suggest